

Immigration again!

You rarely turn on the TV to watch the news these days without some story about immigration. From the plight of those fleeing North Africa to lorries stacked up on the motorway while officials deal with striking workers and those trying to enter the UK through Calais making the most of the traffic chaos.

To add to all that the government have now announced further measures for landlords in respect of immigration act penalties.

The original trial was in the West Midlands, it ran from December 2014 for 6 months (though those operating in that area are still required to continue the 'Right to Rent' checks even after the trial). Following the trial it was always the intention to introduce the scheme nationwide, the trial was simply to learn any lessons from the small scale exercise.

Following the general election, with an effective change in government from coalition to overall Conservative, it was announced that now not only would the Immigration Act provisions be rolled out but that the penalties may be upgraded.

The current regime of penalties involves civil penalties of up to £3,000 per illegal immigrant found at a property. They have now announced that this will be uplifted for persistent offenders to a criminal sanction carrying up to 5 years in prison.

It is not quite clear how 'persistent' will be interpreted as if a landlord had a portfolio of properties he could find he has broken the rules on many properties, and could this lead to prison? Alternatively does a landlord have to have been given the civil penalty on several different occasions before prison becomes a threat?

The legislation is very clear that the responsibility lies with the landlord, not the agent, by default. The agent can accept the responsibility if there is a written agreement. As the sanctions rise this becomes more significant.

Although the official trial evaluation has not been released, apparently there have been only seven landlords given a civil penalty in respect of a total of eleven tenants.

On average the penalties have averaged at £782 totalling £5,480. Another two landlords are 'in the pipeline' to decide if a civil penalty should be paid.

Further intended sanctions include a requirement for landlords to evict illegal immigrants and even the automatic ending of a tenancy on notification from the Home Office, without the requirement for a court order. This latter proposal sounds fraught with danger as, if any prescribed process is not followed, then a landlord seeking to evict without a court order could be guilty of another criminal offence!

All smoke no fire

The draft Smoke and Carbon Monoxide Alarm (England) Regulations 2015 propose to make the fitting of smoke alarms a legal obligation in all rented properties in England. Statistics say 80% of rented properties already have at least one alarm but these requirements require one alarm per floor.

The legislation does not specify they have to be mains operated, although there is no question these are the best style of alarms. The government have given fire and rescue services around the country a substantial amount of money for them to fit battery operated alarms, so they must be acceptable.

Also within the same regulations is a requirement for any room with a solid fuel burning appliance (wood or coal generally) to have a carbon monoxide alarm installed.

If brought in as expected the requirement will apply to any property with a tenancy after 1 October 2015 (ie alarms should be installed by 1 October 2015 in all rented properties).

There is another requirement to check the alarms that will only apply to lettings to new tenants (not including renewals and statutory periodic tenancies). The concerning part is the legislation as currently drafted requires the alarms to be checked 'on the day the tenancy begins'. This is a very tight prescription of the date and could prove exceptionally difficult in some markets, like student lets, where all the tenancies change on the same day. Still, if the law says so...

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